

REMARKS

The Amendments

Claim 1 is amended to incorporate the subject matter of claim 11 therein; claim 11 accordingly being canceled. It should be noted that the "another component" is intended to define that this component is different than isoquercitrin. Thus, although isoquercitrin is one glycoside of quercetin it cannot be the "another component." The restricted claims 16-25 are canceled, though applicants reserve the right to file a divisional application directed thereto. Claim 15 is canceled since it is believed to be a substantial duplicate of claim 5.

The amendments do not narrow the scope of the claims and/or were not made for reasons related to patentability. The amendments should not be interpreted as an acquiescence to any objection or rejection made in this application. To the extent that the amendments avoid the prior art, competitors are warned that the amendments are not intended to and do not limit the scope of equivalents which may be asserted on subject matter outside the literal scope of any patented claims but not anticipated or rendered obvious by the prior art. Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which has been canceled by any of the above amendments.

The Restriction Requirement

The restriction requirement is rendered moot by the cancellation of the restricted claims.

The Rejections under 35 U.S.C. §102 and §103 based on the Beiersdorf AG and Gers-Barlag references

Applicants submitted an Affidavit under 37 C.F.R. §1.131 on February 15, 2001 to swear behind the dates of the Beiersdorf AG and Gers-Barlag references and remove them as effective prior art. The Office Action states that the affidavit was ineffective because no verified translation of the priority document (to evidence the affidavit) was provided. While applicants believe that the translation was submitted and may have been misplaced in the PTO mail, a further copy of the certified priority document and a verified translation thereof are being submitted herewith. It is believed that the evidence of record is now complete to support the 37 C.F.R. §1.131 affidavit and remove the Beiersdorf AG and Gers-Barlag references from the prior art. Thus, the several rejections based on these references should be withdrawn.

The Rejections under 35 U.S.C. §102 over Sawruk and JP '940

The rejections of claims 1-6, 7, 8, 12 and 15 under 35 U.S.C. §102 as being anticipated by Sawruk (U.S. Patent No. 5,478,579) or JP 06-183,940 are respectfully traversed.

Initially, it is noted that claim 11 was not included in either of these rejections and that the substance of claim 11 is now incorporated in the sole independent claim 1.

Sawruk discloses compositions for enhancing absorption of calcium into bones. The compositions contain a flavonol aglycone glycoside, nutritional calcium and a carrier; see, e.g., col. 3, lines 58-67. In the Examples, the only flavonol aglycone glycoside used is isoquercetin. There is no teaching or suggestion from the reference of a composition containing "isoquercitrin and another component which is 5-ethyldeoxyuridine, quercetin, galangin, kaempferol, propolis, chrysin, apigenin, luteolin, myricetin, acacetin, eriodictyol,

isorhamnetin, quercitrin, catechol, hesperitin, rutin, a glycoside of any of the above, a vitamin, a carotene or ascorbic acid." Compare instant claim 1. In the absence of any such teaching or suggestion, and particularly in the absence of any specific embodiment of a composition containing the recited "another component," Sawruk cannot anticipate the instant claims.

JP '940 discloses dentrifices which contain isoquercitrin, miricitrin or isorhamnetin. As with Sawruk, there is no teaching or suggestion from the reference of a composition containing "isoquercitrin and another component which is 5-ethyldeoxyuridine, quercetin, galangin, kaempferol, propolis, chrysin, apigenin, luteolin, myricetin, acacetin, eriodictyol, isorhamnetin, quercitrin, catechol, hesperitin, rutin, a glycoside of any of the above, a vitamin, a carotene or ascorbic acid." Compare instant claim 1. JP '940 does not teach or suggest a dentrifice containing each of isoquercitrin, miricitrin or isorhamnetin, only one of them. In the absence of any such teaching or suggestion to combine these components, and particularly in the absence of any specific embodiment of a composition containing the isoquercitrin and the recited "another component," JP '940 cannot anticipate the instant claims.

For the above reasons, the rejections under 35 U.S.C. §102 should be withdrawn.

The Rejection under 35 U.S.C. §103

The rejection of claims 1-15 under 35 U.S.C. §103 as being obvious over Lanzdorfer (WO 96/18381) in view of Bean (U.S. Patent No. 4,132,782) is respectfully traversed.

The abstract of Lanzdorfer (the only English language part of it) provides a very broad disclosure relating to a multitude of possible combinations between broadly defined types of components a) through h). Component a) is a compound of the flavonoid group. A review of the German language document appears to reveal no specific disclosure regarding

isoquercitrin nor any specific disclosure of isoquercitrin with the other component as recited in applicants' claims. The compositions are used to treat skin conditions.

Bean discloses a method for topical treatment of herpes using an extract of mountain ash berries. Contrary to the statement in the Office Action, Bean does not disclose that isoquercitrin is an active agent for treating herpes. Bean teaches that isoquercitrin is one of the many ingredients in the extract. But Bean admittedly does not know which ingredient(s) of the extract is(are) responsible for the suppression of the herpes virus.

Because Bean does not identify what is the anti-viral component and certainly does not identify isoquercitrin as this component, applicants urge that the motivation for combining the references stated in the Office Action is lacking. Thus, one of ordinary skill in the art reading the Bean reference would not be taught to select isoquercitrin as the flavonoid of choice for use in the Lanzendorfer compositions.

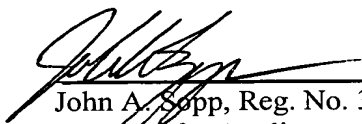
Additionally, even if one of ordinary skill in the art were motivated to select isoquercitrin as the flavonoid of choice in the Lanzendorfer compositions, the Lanzendorfer teachings are still so overly broad as to not suggest applicants' claimed compositions. There is no suggestion from Lanzendorfer's disclosure regarding 8 broad categories – i.e., a) through h) – of types of compounds to select the specific combination of isoquercitrin with "5-ethyldeoxyuridine, quercetin, galangin, kaempferol, propolis, chrysin, apigenin, luteolin, myricetin, acacetin, eriodictyol, isorhamnetin, quercitrin, catechol, hesperitin, rutin, a glycoside of any of the above, a vitamin, a carotene or ascorbic acid" as the other component. There are a multitude of possible combinations of components in Bean and there is no direction to one skilled in the art towards the relatively very specific combination of the instant claims.

The synergistic effect of the combination of isoquercitrin with the other component, which is disclosed in applicants' specification – see, e.g., page 3a, first full paragraph, and

page 7, third paragraph – further supports the nonobviousness of applicants' invention.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

Claim 1 has been amended as follows:

Claim 1. (Amended) A pharmaceutical or cosmetic composition comprising an amount of ~~isoquercitrin~~ and a carrier and synergistically effective amounts of isoquercitrin and another component which is 5-ethyldeoxyuridine, quercetin, galangin, kaempferol, propolis, chrysin, apigenin, luteolin, myricetin, acacetin, eriodictyol, isorhamnetin, quercitrin, catechol, hesperitin, rutin, a glycoside of any of the above, a vitamin, a carotene or ascorbic acid.

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